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10 Attorneys for Plaintiffs and Counter-Defendants
11 THE LARYNGEAL MASK COMPANY LTD.
and LMA NORTH AMERICA, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

16 THE LARYNGEAL MASK COMPANY
LTD. and LMA NORTH AMERICA, INC.,) Civil Action No. 07 CV 1988 DMS (NLS)
17 v.)
18 Plaintiffs,)
19 AMBU A/S, AMBU INC., AMBU LTD.,)
and AMBU SDN. BHD.,)
20 v.)
21 Defendants.)
22)
23 AMBU A/S, AMBU INC., AMBU LTD.,)
and AMBU SDN. BHD.,)
24 v.)
25 Counterclaimants,)
26 THE LARYNGEAL MASK COMPANY)
LTD. and LMA NORTH AMERICA, INC.,)
27 v.)
28 Counter-Defendants.)

) **DECLARATION OF STEPHEN MARZEN IN OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER AND COUNTERCLAIMS**

) Date: August 22, 2008
Time: 1:30 p.m.
Courtroom 10, 2nd Floor

) **Honorable Dana M. Sabraw**

1 I, Stephen Marzen, declare and state as follows:

2 1. I am a partner in the law firm of Shearman & Sterling LLP, co-counsel for
3 Plaintiffs The Laryngeal Mask Company Ltd. and LMA North America, Inc. (collectively
4 "LMA") in this action. I submit this Declaration in Support of Plaintiffs' Opposition to
5 Defendants' Motion for Leave to File Amended Answer and Counterclaims. The following
6 statements are based on my personal knowledge unless otherwise indicated.

7 2. Attached hereto as Exhibit 4 is a true and correct copy of an LMA Brochure
8 which summarizes work by Dr. David Z. Ferson and others of the Department of
9 Anesthesiology of the M.D. Anderson Cancer Center at the University of Texas and which I
10 understand is referenced in ¶ 15 of Ambu's proposed counterclaim. Defendants Ambu A/S,
11 Ambu Inc., Ambu Ltd., and Ambu Sdn. Bhd.'s Memorandum of Points and Authorities in
12 Support of Motion for Leave to Amend Answer and Counterclaims, Exhibit A, at 6.

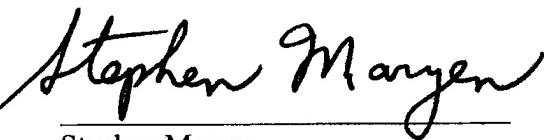
13 3. Attached hereto as Exhibit 5 is a true and correct copy of the November 15,
14 2004 letter from Paul Grandinetti of Levy & Grandinetti to Steve C. Mendell, then President
15 and Chief Executive Officer of LMA North America, Inc.

16 4. Attached hereto as Exhibit 6 is a true and correct copy of the November 19,
17 2004 letter from me to Mr. Grandinetti responding to Exhibit 5.

18 5. Attached hereto as Exhibit 7 is a true and correct copy of the December 22,
19 2004 letter from Mr. Grandinetti to me replying to Exhibit 6.

20 I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct.

22
23 Executed this 8th day of August, 2008, in Washington, D.C.

24
25 
26
27

28 Stephen Marzen

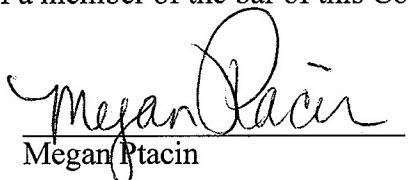
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on August 8, 2008, I caused the foregoing **DECLARATION OF**
3 **STEPHEN MARZEN IN OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE**
4 **TO AMEND ANSWER AND COUNTERCLAIMS** to be electronically filed with the
5 Clerk of the Court using the CM/ECF system which will send electronic notification of such
6 filing to the applicable registered filing users.

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8 FENWICK & WEST LLP
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14 I declare that I am employed in the office of a member of the bar of this Court at
15 whose direction the service was made.

16 Dated: August 8, 2008

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